

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

v.

WILLIAM FUGATE,

Defendant.

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21-CR-127-LJV-MJR  
DECISION & ORDER

The defendant, William Fugate, was charged in a two-count indictment with possessing with intent to distribute 50 grams or more of methamphetamine, in violation of Title 21, United States Code §§ 841(a)(1) and 841(b)(1)(B), and using and maintaining a drug-involved premises—619 Northumberland Avenue, Buffalo, New York—in violation of Title 21, United States Code § 856(a)(1). Docket Item 7.

The case was assigned to this Court, and on August 5, 2021, this Court referred the case to United States Magistrate Judge Michael J. Roemer. Docket Item 9. On March 15, 2022, Fugate moved to suppress evidence seized by law enforcement on May 6, 2021, during the execution of a search warrant issued by Lackawanna City Court Judge Kenneth Szyszkowski. Docket Item 27. The government responded on April 11, 2022, Docket Item 31, and submitted the search warrant and the *in camera* testimony provided to Judge Szyszkowski, Docket Item 32. On July 13, 2022, Judge Roemer issued a Report, Recommendation and Order (“RR&O”) recommending the denial of Fugate’s motion to suppress. Docket Item 34.

In his RR&O, Judge Roemer concluded that: 1) there was probable cause to issue the search warrant for 619 Northumberland Avenue; 2) the search warrant did not

lack particularity; and 3) the officers were permitted to open and search the safe located in the primary bedroom. *Id.* Fugate sought three extensions of time to file objections to Judge Roemer's RR&O, see Docket Items 35, 37, 39, and this Court granted each of those extensions, Docket Items 36, 38 and 40. The final deadline for filing objections was January 3, 2023, however, and Fugate did not object. Because the deadline for filing objections now has passed and no objections have been filed, the Court reviews the RR&O.

A district court may accept, reject, or modify the findings or recommendations of a magistrate judge. 28 U.S.C. § 636(b)(1); Fed. R. Crim. P. 59(b)(3). The court must review *de novo* those portions of a magistrate judge's recommendation to which a party objects. 28 U.S.C. § 636(b)(1); Fed. R. Crim. P. 59(b)(3). But neither 28 U.S.C. § 636 nor Federal Rule of Criminal Procedure 59 requires a district court to review the recommendation of a magistrate judge to which no objections are raised. *See Thomas v. Arn*, 474 U.S. 140, 149-50 (1985).

Although not required to do so in light of the above, this Court nevertheless has reviewed Judge Roemer's careful and thorough RR&O as well as the parties' submissions to him, including the search warrant, the application for a search warrant, and the *in camera* testimony presented to Judge Szyszkowski. Based on that review and the absence of any objections, the Court accepts and adopts Judge Roemer's recommendation to deny Fugate's motion to suppress.

For the reasons stated above and in the RR&O, the defendant's motion to suppress, Docket Item 27, is DENIED.

SO ORDERED.

Dated: January 18, 2023  
Buffalo, New York

**s/ Lawrence J. Vilaro**  
LAWRENCE J. VILARDO  
UNITED STATES DISTRICT JUDGE